

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Richard Struve, Jr.,
Petitioner-Appellant,

v.

City of Cedar Rapids Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-101-1019
Parcel No. 14154-35004-00000

On March 20, 2012, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Richard Struve, Jr. submitted evidence in support of his petition. He was self-represented. City Attorney James H. Flitz is counsel for the Board of Review. City of Cedar Rapids Assessor Beth Weeks submitted evidence on behalf of the Board of Review. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Richard Struve, Jr., owner of property located at 1949 B Avenue NE, Cedar Rapids, Iowa, appeals from the City of Cedar Rapids Board of Review decision reassessing his property. According to the property record card, the subject property consists of a one-story, frame dwelling having 1200 square feet of above-grade living area built in 1927; a full basement, that includes a one-stall, built-in garage; two enclosed porches totaling 265 square feet; and a 70 square-foot concrete patio. The dwelling has an average quality grade (4+10) and very good condition rating. The property has 25% physical depreciation. The improvements are situated on a 0.172 acre site in the Northeast quadrant of Cedar Rapids.

The real estate was classified as residential on the January 1, 2011, assessment and valued at \$139,810, representing the \$30,600 land value and \$109,210 in dwelling value.

Struve made the notation, "See Narrative," in both the equity and the change in value sections of his Board of Review petition. However, his attached narrative actually raised a claim based on the ground that the property was assessed for more than authorized by law under Iowa code section 441.37(1)(b). The Board of Review denied the protest.

Struve then appealed to this Board with the same claim. He seeks a \$600 reduction in his real estate taxes. He did not provide any requested reduction to the market value of his home. Struve submitted a narrative describing the deteriorating conditions in his neighborhood and contending the City has failed to enforce many of its ordinances. He asserts the ordinances include prohibiting parking in the right of way (ROW), requiring gravel be removed from ROW area, and requiring grass to be planted in the ROW. He also provided a log listing violations in the neighborhood for disturbing the peace, nuisance, prohibited occupation, parking standards, and vehicle storage regulations. Even though he lists all of these issues, nothing in the record quantifies the nuisances' impact on the subject property's value.

Chief Deputy Assessor Beth Weeks submitted exhibits on behalf of the Board of Review, including data and analysis of four comparable sales. The comparables unadjusted sale prices ranged from \$115,000 to \$133,200, or \$99.74 to \$130.95 per square foot, with a median of \$125.10 per square foot. Two of the sales occurred in 2010, one sold in 2009, and the fourth sold in 2008. The Board of Review adjusted the sale prices for total living area, porches, decks/patios, depreciation, fireplaces, garage feature, and other amenities. We note the adjustments were cost based and not market adjustments. The adjusted sale prices range from \$114.15 to \$169.02 per square foot with a median of roughly \$136.50 per square foot. The assessed value of the subject, \$116.51 per square foot, is within both the adjusted and unadjusted sale price ranges.

The following summarizes the Board of Review sales comparables data.

Parcel	Year Built	TSFLA	Garage	Condition	Sale Date	Sales Price	\$SPSF	Adjusted Sales Price	Adjusted \$SPSF
839 29th St NE	1956	1153	280-Att	NML	09/21/2010	\$115,000	\$99.74	\$131,611	\$114.15
2600 B Ave NE	1923	1002	264-Det	A NML	04/30/2010	\$133,200	\$132.93	\$137,121	\$136.85
2521 A Ave NE	1929	1044	360-Det	A NML	11/12/2009	\$124,500	\$119.25	\$141,798	\$135.82
2615 A Ave NE	1926	924	336-Det	NML	09/22/2008	\$121,000	\$130.95	\$156,179	\$169.02
Subject	1927	1200	1-Base	VG					

The Board of Review also submitted five properties for equity comparison, evidence to refute a downward change in value argument, and evidence to support the subject property's assessment. However, while Struve marked in the equity and change in value sections of his petition, he did not raise equity or downward change claims before this Board. Therefore, we do not find the information relevant.

Reviewing the entire record, we find the preponderance of the evidence does not support Struve's claim of over-assessment. While he did provide evidence to shows a deterioration in his immediate neighborhood, he failed to provide any evidence to show his property is over-assessed or the market value of the property as a result. Even though the Board of Review made cost adjustments to the comparable sales, the sales appear to be reasonably comparable properties in the area, were fairly recent, and tended to support the assessment.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only

those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). While Struve presented evidence to establish multiple reports/violations of parking, noise, and other ordinances in his immediate neighborhood, he failed to provide evidence to support his claim that the property is assessed for more than authorized by law as a result of these issues.

Viewing the record as a whole, we determine that the preponderance of the evidence does not support Struve's claim of over-assessment as of January 1, 2011. Therefore, we affirm the property assessment of 1949 B Avenue NE, Cedar Rapids, Iowa as determined by the Board of Review at \$139,810, representing \$30,600 in land value and \$109,210 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the City of Cedar Rapids Board of Review is affirmed.

Dated this 18th day of May 2012.

Jacqueline Rypma
Jacqueline Rypma, Presiding Officer

Richard Stradley
Richard Stradley, Board Chair

Karen Oberman
Karen Oberman, Board Member

Copies to:
Richard Struve, Jr.
1949 B Avenue NE
Cedar Rapids, IA 52402
APPELLANT

James H. Flitz
City Attorney
3851 River Ridge Drive NE
Cedar Rapids, IA 52402
ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>5/18</u> , 201 <u>2</u> .	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>[Signature]</u>